Passed
B

FOR MYSORE STATE

Home (1953) Department.

MS SERIES.

G.O. NO.	2849
Dated	8.9.53

[Despatch Abstract.]

Prisoners- Advisory Board- Central Jail, Cannanore.
C.No. 1561, John Lobo - Release ordered.

1

Government of Madras
**

Copy of the letter No.145/S4/53 dated 23.6.1953 from the Inspector General of Prisons, Madras to the Secretary to Government, Home Department, Madras.

1561 John Lobo

Sub: Advisory Board - Central Jail, Cannanore - Cases of long term convicts - Recommended for premature release -Papers submitted.

Under Rule 310-A (b) of Part I, Madras Prison & Reformatory Manual, Volume II, I submit the following papers relating to the convicts mentioned in the Annexure for orders of the Government. These papers were placed before the Advisory Board which met at the Central Jail, Cannanore on 7.6.53.

1. Proceedings of the Board.
2. Recommendation Roll.
3. Advisory Board working Sheet.
4. Nominal Roll.
5. Copies of Judgments of the Lower and Appellate Courts.

2. I recommend the premature release of Convict Nos. 1561 John Lobo and 2894 Thyagaraja Olivarayar.

3. The case of Convict No.12788 Musthafa alias Appavu Rowthen was considered by the Board at Central Jail, Cannanore on 21.6.52 and it did not recommend his release but directed to place the case after one year. Now the Board recommends his release. I do not agree with the Board as this is a case of cold-blooded murder of a woman as stated by the Sessions Judge in his Judgment.

Annexure

Separate file

1. Convict No.12788 Musthafa alias Appavu Rowthen
2. " 1561 John Lobo
3. " 2894 Thyagaraja Olivarayar

Separate file

/True copy/

Superintendent

Extract from the proceedings of the Advisory Board meeting held at the Centr Jail, Cannanore on 7-6-53.

The cases of the following convicts sentenced to 3 years R.I. and above are recommended for conditional release.

Sl.No.	Convict No. & Name	Remarks.
2	1561 JOHN LOBO	RECOMMENDED.

(True extract)

Superintendent,
Central Jail, Cannanore.

Judl. (Jail II)-92—8,4[illegible]-14-9-51.

5

Roll of convict recommended for conditional release under the Intermediate sentences scheme sanctioned in G.O. No. 667, Law (General), dated 26th February 1923.

1. Name of jail	Central Jail, Cannanore.
2. Convict number and name	1561 JOHN LOBO
3. Father's or ~~Husband's name~~	Francis Lobo
4 Residential address including taluk and district.	Kudpu, Mangalore, S.Kanara,
5. Court by which the prisoner was convicted and case number.	Principal Asst.Sessions Judge S.Kanara. SC.7/51
6. Section of the I.P.C. or other law under which convicted.	436 I.P.C.
7. Date of sentence	2-7-51
8. Period of sentence	3 years R.I.& fine Rs.200/- in default 3 months R.
9. Date on which convict completed two thirds of his sentence.	3-8-53
10. Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of public events should be excluded).	Y M D 0 -11-19 7.6.53

P.T.O.

6

11. Full " police " history with recommendation of the District Superintendent of Police.	1) Nil 2) Nil 3) The life of the accused is not suspected to be unsafe if he is to be released prematurely. 4) The accused had set fire to the house of his mother(complainent) on account of some ill-feeling between them The mother (complainent) was questioned in this respect and she stated that she expects no harm at the hands of the accused if he is to be released. Her statement is attached herewith for perusal. Sd/ S.I. of Police.
	The convict has been in custody since 25-3-51 and the term of imprisonment expires on 2-7-54 in the circumstances of this case there is no objection for the premature release of this convict. Sd/ Inspector of Police.
	1 & 2 Nil. (3) The life of the accused is not suspected to be unsafe if he is to be released prematurely.4) nil There is no objection for the premature release of the convict. Sd/ Dist. Supdt. of Police S. Kanara.
12. Recommendation of the District Magistrate.	Enquiry reveals that the mother of the above convict who is the complainent apprehends no harm from the accused if he is released prematurely. The D.S.P. S.Kanara has also no objection to the release of the prisoner before the expiry of his sentence. He can be released without injury to the community. Sd/ Dist. Magistrate.
13. Remark of the Superintendent of the Jail on the conduct of the convict in prison.	Exemplary.
14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate.	Recommended.

Cannanore Central Jail,

Dated 7 - 6- 1953

Superintendent

Working sheet of Convict No.1561 John Lobo

	(1) For substantive sentence only	(2) Including fine sentence.
Sentence	3 years.	3 years & 3 mon
Date of sentence	2- 7- 51	2- 7 -51
Add 2½ years	6- 2	6 - 2
	1- 1- 54	1 -1- 54
Remission earned 125 days and likely to earn 24 days including G.C.R.-149 days or	29- 4- -	29 -4- -
Date of eligibility for Advisory board.	3-8- 53	3 -8- 53

Superintendent,
Central Jail, Cannanore.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13, 19.000—11—6—52.

NOMINAL ROLL OF MALE* CONVICT No. 1561 † A

Name John lobo S/o Francis lobo.

Residence (Village, Taluk and District). Kudpu, Mangalore, S. Canara

Caste Christian, Present age 24 years, Occupation Cook

Section and Code under which imprisoned. Sec. 436 I.P.C.

Original sentence of order and date. RI for 3 years and a fine of Rs. 200/- in default RI 3 months 7-5-51

Adjudicating Court and Calendar number of case. Principal Asst. Sessions Judge, Mangalore S.C. 67/51

Unexpired term of sentence after deducting remission earned. 1 year (s) 11 Month (s) 19 Day (s),

Present state of health and fitness to undertake a journey † IH

10

Result of appeal (if any) Declined

Conduct in Jail Exemplary

Personal and descriptive marks§ Blackmole Rt. side lower Third neck front Appeal (2) Birthmark at 8 – 9 o'clock 2" from Rt. nipple.

Remarks Class – Diet Rice – 5 dn. A

Remission earned – 125 days.

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore Central JAIL, 7 – 6 – 1953

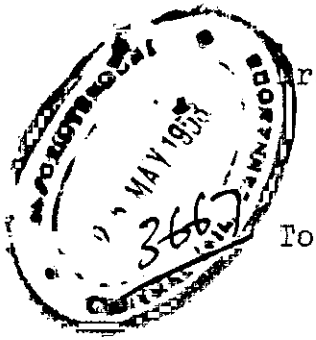
1 · 10 · 54
7 · 6 · 53
24 · 3 · 1
5 · 4
29 · 11 ·

30) 125 (4
120
5

Superintendent

By Regd.Post.
M.L.Dis.3608/53

S.K.Dt.Magistrate's Office,
Mangalore dated 20.5.53.



From

Sri A.Mahalingam Chettiar, B.A.,
District Magistrate, S.Kanara.

To

The Superintendent,Central Jail,
Cannanore.

Sir,

SUB: PRISONERS: ADVISORY BOARD - Central Jail- Cannanore-Convict No.1561 John Lobo- premature release report.

Ref: Your letter No.Nil dated 15.4.53.

Enquiry reveals that the mother of the above convict who is the complainant apprehends no harm from the accused if he is released prematurely. The D.S.P.South Kanara has also no objection to the release of the prisoner before the expiry of his sentence. He can be released with no injury to the community.

2. The records of enquiry received from the Dt.Superintendent of Police, South Kanara are enclosed.

(By order)

Magl.Head Clerk.

Encl

57 13

3693

ANNEXURE. (to be returned)

Convict No. 1561 and Name. John Lobo

Note:

The Government directed that the previous history of the above prisoner should contain the information on the following points, and the District Magistrate and the District Superintendent of Police are requested to furnish the same.

1.	Report of the District Superintendent of Police. 2.	Opinion of the District Magistrate in the Matter of the U.P. 3.
1. What will be the reaction in the locality, if the prisoner is released prematurely.	Nil.	Yes
2. What will be the feeling of the relations of the victims or victim of the offence who suffered at the hands of the accused will be in the case premature release.	nil.	yes.
3. Whether the life of the accused itself will be safe if he is to be released prematurely.	The life of the accd is not suspected to be unsafe if he is to be released prematurely.	yes
4. Any additional information relating to the prisoner.	— Nil There is no objection for the premature release of the convict.	yes

N.K. Ramarao 1945
District
Supdt. of Police.

2015
District
Magistrate.

(Vide Government memo No. 17013 prisons - II/50-3 Home dated 31-2-50)

To

The ~~District~~ Superintendent ~~of Police~~, Central Jail Cannanore.
Through the Asst Supdt South Kanara.

ಸಾಂ 1953 ನೇ ಮಾಹೆ, ಮೇ ತಿಂಗಳ ಇತ್ತ ಅಚ್ಚಿನ ಕೆಲಸ ಮುಗಿಸಿ
ಕಾಂಡ, ಕೈ ಬಿ ಮಾಡಿ ಹಾಕಿಸಿ ಮಾಡಿಸಿ ಅಂತ ಹೇಳಿ ಕಳುಹಿಸಿದ್ದ
ಮೇರಿಯವರು, ಇಲ್ಲಿ ತನಕ್ಕೆ ಮಾಡಿ ಮುಗಿಸಿ ಬಂದೆವು. ಕೆಲಸ ಹೇಗೆ
ಇದೆ ಮತ್ತು. ಮಾಡಿಸಿಕೊಂಡು ಬಂದು ಸರಿ, ನಮ್ಮ ಅಂತ ಮಾಡಿಸಿಕೊಂಡು
ಕೆಲಸ ಮಾಡಿಸಿ ಕೊಡಿ. ಬಾಂಡು ಪೇಪರ್ ಸೀಲು ಹಾಕಿದ ಮೇಲೆ ಮಾಡಿಸಿ
ಕೊಂಡು ಬಂದೆವು. ಮತ್ತೆ ಮಾಡಿಸಿ ಕೊಂಡು ಬಂದ ಮೇಲೆ ಸಾಹೇಬರು ಹೇಳಿದ
ಹಾಗೆ ಮಾಡಿಸಿ ಕೊಡಿ. ಅಲ್ಲಿ ಹೇಳಿದಂತೆ ಮಾಡಿಸಿ ಬಂದು ಬಿಲ್ಲು ಕೊಟ್ಟ ಮೇಲೆ
ಹಣ ಕೊಡುವ ಹಾಗೆ ಮಾಡಿರಿ ಅಂತ ಹೇಳಿದರು. ಇಷ್ಟೆ ಅಲ್ಲದೆ, ಅಂತ ಮಾಡಿಸಿ
ಕೊಂಡು ಬಂದ ಮೇಲೆ ಹೇಳಿದ ಹಾಗೆ ಮಾಡಿಸಿ ಕೊಡಿ ಅಂತ ಹೇಳಿದ್ದಕ್ಕೆ ಮೇರಿ
ಯವರು ಹಣ ಕೊಡುವುದಕ್ಕೆ ಮಾಡಿದರು. ಹಾಗೆ ಅಲ್ಲ ಹಣ ಕೊಡುವುದಕ್ಕೆ ಮೊದಲು
ಈ ಮಾಡಿಸಿ ಕೊಂಡು ಬಂದ ಮೇಲೆ ಸಹಿ ಮಾಡಿ, ಹಣ ಕೊಡುವ ಹಾಗೆ
ಮಾಡಿರಿ, ಅಂತಾ ಹೇಳಿದ್ದಕ್ಕೆ ಮೇರಿಯವರು ಸರಿ ಅಂತ ಹೇಳಿ ಹೋದರು.
ಮತ್ತೆ ಇವತ್ತಿನ ತನಕ್ಕೆ ಹಣ ಕೊಡುವುದಕ್ಕೆ ಏನೂ ಸಹಿ ಮಾಡಿಸಿ ಕೊಡದೆ
ಹಣ ಕೊಡುವುದಿಲ್ಲ ಅಂತ ಹೇಳಿದ್ದು. ಇವತ್ತಿನವರೆಗೆ ಹಣ ಕೊಟ್ಟಿಲ್ಲ. ಆ ಕಾರಣ ಇಲ್ಲಿ
ಸಹಿ ಮಾಡಿದೆ. ಹಾಗು ಹೆಬ್ಬೆಟ್ಟಿನ ಗುರುತು ಸರಿ ಇದೆ.

ಹೆಬ್ಬೆಟ್ಟಿನ ಗುರುತು
ಸಹಿ ಇವನ ಹೆಸರು.
ಸಾಕ್ಷಿ ಮಾಡಿದವರು
ಸಾಲು ಪ್ರಾಸಕರು ಇಲ್ಲಿ
ದಿ 3/5/53.

~~41~~ 42 / 12

Report on ~~the~~ prematurely released prisoner.

1. What will be the reaction in the locality, if the prisoner is released prematurely. Nil

2. What will be the feeling of the relations of the victim ~~xx xxxxxxx~~ of the offence who suffered at the hands of the accused will be in the case prematurexxx release. Nil

3. Whether the life of the accused itself will be ~~safe if he is to be~~ released prematurely.

3. ~~Wxxxxxxxx~~ Whether the life of the accused itself will be safe if he is to be released prematruely. The life of the accused is not imperiled & he is to be released prematurely

4. Any additional information relating to to the prisoner. The accused had set fire to the house of his mother (complt.) on account of some ill-feeling between them. The mother (complt.) was questioned in this respect and she states that she objects no harem at the hands of the accused if he is to be prematurely released. Her statement is attached herewith for perusal

Station House Officer, 9/5/53 10.5.53
Mangalore East.

STATE OF MYSORE DISTRICT MAGISTRATE SOUTH KANARA 12 MAY 1953
POLICE CIRCLE OFFICE, BANGALORE 10 MAY 1953

Recommended.
The convict has been in custody since 25.3.54 and the term of imprisonment expires on 2.7.54. In the circumstances of this case there is no objection for the premature release of this convict
Asst Superintendent of Police, Mangalore Sub-Division 10.5.53

P.T.O.

15

For Ds & Sk

Ds

Ale proscribed from circuit of Ecclesiastic No
1561 John Lobo deposit upo oath for f/o signature.

R Cecil Lee
JP & D.
12/5/59

Assessor Case

In the Court of the Sessions, S. Kanara

Present:- SRI P. A. NAZARETH, B. A., M. L.,
Principal Assistant Sessions Judge.

Monday the 2nd day of July 1951.

Sessions Case No. 7 of 1951

(F. I. No. 21/51 of Mangalore East Station)

Name of the Accused: JOHN LOBO.

Charge: Mischief by fire — Section 436 I. P. C.

Name of the assessors: Assessors not chosen as the accused pleaded guilty.

Order and sentence: The accused is convicted under Section 436 I. P. C. and sentenced to 3 years' R. I. and a fine of Rs. 200 in default of payment which, to a further period of 3 months' R. I. If the fine is recovered it shall be paid to the accused's mother.

The accused was undefended.

The case was committed to Sessions by Sri L. Fernandes, Stationery Sub Magistrate, Mangalore in R. C. 2/51 on his file and was transferred to this Court by the Sessions Judge, for trial.

ORDER

The Accused, John Lobo, stands charged with having set fire on 21-2-1951 to the residential house of his mother Gracy Miranda in Kudpu village intending to cause its destruction, having thereby caused its destruction and also loss or damage to his mother amounting to Rs. 2,500 and, thereby, having committed an offence punishable under Section 436 I. P. C.

2. When the aforesaid charge was read out and explained to the Accused, he has pleaded guilty. I accept his plea and find him guilty of the offence with which he stands charged.

3. His statement in the Committal Court, which I have perused, shows that he has admitted that in consequence of his setting fire to his mother's house, she has suffered a loss amounting to about a thousand rupees. It is true that the Accused is a young man of 22 and appears to have committed the offence in a fit of anger on account of his mother's refusal to help him with funds to defend himself in a Prohibition case which was then pending against him. But that circumstance cannot minimise the gravity of the offence he has committed. He had set fire to his mother's house at midnight and had caused her a loss exceeding Rs. 1,000. He has been in remand ever since he was arrested on 25-3-1951. Taking the aforesaid circumstances into consideration, I convict him under Section 436 I. P. C. and sentence him to three years' Rigorous Imprisonment and a fine of Rs. 200, and in default of payment of fine, to a further period of three months' Rigorous Imprisonment. In case the fine is recovered, the amount will be paid over to the Accused's mother.

Pronounced in open Court this 2nd day of July 1951.

(Sd:) P. A. NARARETH,
Principal Asst. Sessions Judge.

Note:- The prisoner will be lodged in the Central Jail, Cannanore.

Particulars of previous conviction:-

NIL.

APPENDIX OF EVIDENCE.

NIL.

(Inld.) P. A. N.
Principal Asst. Sessions Judge.

No. of words 510

(True Copy)

Principal Asst. Sessions Judge.

Srinivas Printing Works, Mangalore

20

TRUE COPY
(BY ORDER)

Mangalore
Asst. Sessions Court.
11-7-1951

Sheristadar.

To
The High Court Madras

C. No. 144047 Cts IV/53

602—26-2-52.

HOME DEPARTMENT.

G.O. Ms. No. 2849 Dated 8.9.53

PRISONERS—Advisory Board { ~~The Penitentiary, Madras~~ / Central Jail, Cannanore } Convict No. 1561, John Robo Release—Ordered.

READ—the following :—

P.C.T. From the Inspector-General of Prisons, No. 145/S4/53. d. 23.6.53

ORDER—

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, ~~His Excellency~~ the Governor of Madras hereby remits ~~with effect from~~ ~~the period noted against them~~ the unexpired portion (½) of the sentence (½) of ~~the~~ imprisonment/ ~~transportation for life~~ passed on the prisoner(½) shown in ~~the~~ Annexure I to these proceedings subject to the condition that he/~~they will be of good conduct and will keep the peace for~~ ~~a period of~~ executes a bond in the form prescribed in Annexure II to these proceedings. Provided that this order shall not be deemed to remit the sentence of fine of the said prisoner.

The Supdt. C.J. Cannanore is requested to fill in the security amount in the bond in consultation with the R.D.O. of the place in which the prisoner belongs.

To 8/9/53

The Inspector-General of Prisons, Madras (with one spare copy).
,, Superintendent, Central Jail, Cannanore.
,, Registrar, ~~High~~ Court, Madras.
,, ~~Additional~~ District Magistrate (~~I~~). S. Kanara.
,, Sessions Judge, S. Kanara.
,, Inspector-General of Police, Madras (with one spare copy).
,, Secretary, Madras ~~Presidency~~ State Discharged Prisoners, Aid Society, 'Goschen Home', Teynampet, Madras.

[Annexure. P.T.O.]

Copy for S.7.

ANNEXURE. I

~~The Penitentiary, Madras~~
Central Jail, Cannanore.

Number and name of Convict including father's name.	Residential address including taluk and district.	Sentencing Court and Case No.	Sentence and date.	Date on which release should take effect.	Period of good conduct.
561, John Lobo son of Francis Lobo p5 c.f	Kudpu, Mangalore, S. Kanara p5 c.f	Principal Asst Sessions Judge, S. Kanara S.C. 7/51. p19 c.f	R.I. for three years and a fine of Rs. 200/- & in default R.I. for three months.	2.7.1951	Rem p19 c.f.

B
7/8/53

B
7/8/53

Annexure II

H.E. Board at pp 2-3 of (D).

B
7/8/53

Note.

The draft order submitted above is in accordance with the recommendation of the D.S.P & D.I.G of the Advisory Board.

✓ p13 c.f
✓ p3 c.f

Does this mean that he must pay the fine? If he does not, what happens?

B
7/8/53
7/8/53

VBS
10/8/53

Ref A.S's query on p2 ante.

Submitted. With reference to the orders in G.O.Ms.No. 1428, Home, dated 9-4-1949 (a) sentence of imprisonment in default of payment of fine is also taken into account for the purpose of Advisory Board Scheme and remitted. But as the sentence in default of payment of fine is not a satisfaction or discharge of the sentence of fine but only a punishment for non-payment of fine, the remission of sentence of imprisonment in default would mean only that the Govt. gives up the punishment for non-payment of fine and not that it remits the sentence of fine also. Legal have advised that while remitting sentences of imprisonment in default of payment of fine, (it should be) stipulated that it does not involve remission of the sentence of fine also.

Under section 386 (1) Cr.P.C. a fine levied by a Court can be recovered by the issue of a distress warrant or by execution according to civil process. Even if the prisoner has undergone the default sentence the fine can be collected.

In this case the prisoner will be released though fine has not been paid under this order. ~~The Court will have to take steps to collect the fine.~~

R
18/8/53

19.8.53

The draft on p1 ante may be approved

PBB
19/8/53

DS

In such cases should not the remission order refer to the fine or at least the appropriate authorities should be simultaneously advised ~~to the effect that~~

4.

be collected. Please examine.

H.
21 Aug'53.

Submitted. The sentence in default of payment of fine is not a satisfaction or discharge of the sentence of fine but only a punishment for non-payment of fine. The remission of sentence of imprisonment in default would mean only that the Govt. give up the punishment for non-payment of fine and not that it remits the sentence of fine also. It is therefore usually mentioned in the remission order that the sentence of fine is not remitted. The intention is that the Court concerned is left free to collect the amount as there is no intention on the part of the Govt. to give up the fine amount. Hence only the sentence of imprisonment is remitted.

The Court concerned is expected to take the necessary steps under Section 386 Cr PC for the collection of the fine amount. There is therefore no need to issue instructions that fine need not be collected.

S.
3/9/53.

8/9/53

9/8
4/9/53

DS

Draft approved
H.
6 Sep 53

Issued as G.O.Ms. 2849 Home dt. 8.9.53

Sd.

Sirbd. The delay in submitting this file is very much regretted. Such delays will be avoided in future & D.S's queries answered promptly.
The clerk has been instructed to reply queries promptly in future

D.
11/9/53

19/9

It is not the first time that delays are noticed in this clerk's work. He may be warned to be more quick and careful in future

"9.53 "S"

Recd in Secn on 2 & 8.9.53
dB

Ptn for abn of (1)

See p1 ante

Should not have taken the time for ascertaining a precedent?
11
6 Sep 53

Note & answer DS's query quickly

9/8
9.9.53

Pgs 1-2 ante

As this is a fairly heavy seat, the clerk may be warned to be quick. This need not be entered in his P.F.

H.
14 Sept 53

Notes.
B
14/9/53

No.R.7/ 4(6) /53

Office of the Superintendent, Central Jail, Cannanore, Dated 11-9-53

From

Sri.K.P.R. Menon, Superintendent.

To

The Secretary to Government, Home Department, Madras.

Sir,

Sub:- Prisoners - Advisory Board - Central Jail, Cannanore - Convict No.1561 John Lobo - Release Order - Acknowledged.

Ref:- G.O.Ms. No.2849 Home Department D/ 8-9-53.

179739 14-9-53

I hereby acknowledge receipt of the above Government order.

Superintendent.

Copy submitted to the Inspector-General of Prisons, Madras.

SECRETARY TO GOVERNMENT HOME DEPARTMENT

May be filed with the G.O.